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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,046	12/17/1999	TOSHIYUKI OHKUBO	1232-4605	9718

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EXAMINER	
VU, NGOC YEN T	

ART UNIT	PAPER NUMBER
2612	9

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/466,046	Applicant(s) OHKUBO, TOSHIYUKI	
	Examiner Ngoc-Yen T. Vu	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 February 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,10,13-25 and 28-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,10,13-25 and 28-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendments, filed on 02/26/2004, have been entered and made of record. Claims 1-6, 10, 13-25 and 28-40 are pending.

Response to Arguments

2. Applicant's arguments filed 02/26/2004 have been fully considered but they are not persuasive.

With respect to the Inoue '954 reference, the Applicant argues that the subjective evaluation performed by the user, not the camera. The Applicant further argues that for all of the post-processing features disclosed by Inoue, it is the user who performs the evaluation of the displayed image, not the camera itself. The Examiner respectfully disagrees. The Examiner has relied on the seventh to ninth embodiments of figures 25-37 to consider limitations as claimed in previously submitted claims 1-8, 10-11, 13 and 15-31. Inoue teaches in column 27, lines 19-26, that when a release switch is half depressed to output a first release signal, the AE/AF and control circuit (237) perform an evaluation on the basis of a state of an object existing before the image pickup device picks up an object image for photo-taking (col. 27 line 19 – col. 28 line 29). Inoue further teaches that the AE/AF and control circuit (237) evaluates the object image picked up by said image pickup device for photo taking (col. 28 line 37 – col. 29 line 19). In light of the teaching in Inoue, the Examiner submits that Inoue does teach an evaluation device as claimed in the independent claims 1, 28, 29 and its corresponding dependent claims. It is noted that Inoue

teaches that the display on a monitor allows a user to confirm the contents of the AE and AF without requiring the user to perform a cumbersome operation (col. 30 lines 5-12).

In view of the above, the Examiner believes that the broadest interpretation of the present claimed invention does in fact read on the cited references for at least the reasons discussed above and as stated in the Office action as follows. This Office action is made final.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-6, 10, 13, 15-25, 28-35 and 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue (US #5,710,954).

Regarding claim **1**, in figures 17-36 Inoue '954 teaches an apparatus comprising:

(A) an image pickup device (209) which picks up an object image (col. 25 lines 1-20);

(B) an instruction device (col. 27 line 20+) which gives an instruction for causing said image pickup device to pick up an object image for photo-taking; and

(C) an evaluation device (control circuit 237) which, on the basis of (i) a state of an object existing before said image pickup device picks up an object image for photo-taking in response to the instruction of said instruction device and (ii) an object image picked up by said image pickup device for photo-taking, evaluates the object image (col. 25 line 1 – col. 26 line 54; col. 27 line 15 – col. 28 line 43).

As to claim **2**, Inoue '954 teaches that said instruction device includes a shutter release switch (col. 27 line 20+).

As to claims **3** and **32**, Inoue '954 teaches that said evaluation device compares a state of an object existing before said image pickup device picks up an object image for photo-taking with a state of an object determined from an object image picked up by said image pickup device for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claim **4**, Inoue '954 teaches that said evaluation value detects a state of an object existing before said image pickup device picks up an object image for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claims **5** and **33**, Inoue '954 teaches that said evaluation device determines a difference between a state of an object existing before said image pickup device picks up an object image for photo-taking and a state of an object determined from an object image picked up by said image pickup device for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claims **6** and **34**, Inoue '954 teaches that said evaluation device determines a difference between a state in distance of an object existing before said image pickup device picks up an object image for photo-taking and a state in distance of an object determined from an object image picked up by said image pickup device for photo-taking (col. 29 lines 32-39; col. 29 line 63 – col. 30 line 4).

As to claim **10**, Inoue '954 teaches that said evaluation device determines a difference between a state in luminance of an object existing before said image pickup device picks up an object image for photo-taking and a state in luminance of an object determined from an object

image picked up by said image pickup device for photo-taking (Figs. 25 & 36, luminance signal processing circuit 212; col. 25 lines 10+).

As to claims **13** and **35**, Inoue '954 teaches that said evaluation device determines a difference between a state in color of an object existing before said image pickup device picks up an object image for photo-taking and a state in color of an object determined from an object image picked up by said image pickup device for photo-taking (Figs. 25 & 36, chrominance signal processing circuit 213).

As to claims **15** and **37**, Inoue '954 teaches that said evaluation device determines a state of movement between an object existing before said image pickup device picks up an object image for photo-taking and an object determined from an object image picked up by said image pickup device for photo-taking (col. 19 lines 61-65; col. 20 line 41 – col. 21 line 2; col. 21 lines 24-26, 56-62; col. 24 lines 1-20).

As to claim **16**, Inoue '954 teaches that said instruction device includes a shutter release member, and said evaluation device detects a state of an object existing before said image pickup device picks up an object image for photo-taking in response to a first stroke of said shutter release member, and detects a state of an object from an object image picked up by said image pickup device in response to a second stroke of said shutter release member (col. 19 lines 57-61; col. 27 line 20+).

As to claims **17** and **38**, Inoue teaches a display device which makes a display according to whether a difference between a state of an object existing before said image pickup device picks up an object image for photo--taking and a state of an object determined from an object

image picked up by said image pickup device for photo-taking is not less than a predetermined value (col. 28 line 45 – col. 29 line 39).

As to claim **18**, Inoue teaches that said evaluation device changes said predetermined value in accordance with a photo-taking condition (col. 28 line 45 – col. 29 line 39).

As to claim **19**, Inoue teaches that said evaluation device changes said predetermined value in accordance with one of a flash photo-taking condition, a slow-shutter mode and an exposure compensation mode (col. 28 line 45 – col. 29 line 39).

As to claims **20** and **39**, Inoue teaches that when having determined that a difference between a state of an object existing before said image pickup device picks up an object image for photo-taking and a state of an object determined from an object image picked up by said image pickup device for photo-taking is not less than a predetermined value (col. 28 line 1 – col. 29 line 39), said evaluation device enables the object image picked up by said image pickup device for photo-taking to be prevented from being recorded in a recording device (col. 28 lines 25-29).

As to claim **21**, Inoue teaches that said evaluation device changes said predetermined value in accordance with a photo-taking condition (col. 28 line 1 – col. 29 line 39).

As to claim **22**, Inoue teaches that said evaluation device changes said predetermined value in accordance with one of a flash photo-taking condition, a slow-shutter mode and an exposure compensation mode (col. 28 line 1 – col. 29 line 39).

As to claims **23** and **40**, Inoue teaches that when having determined that a difference between a state of an object existing before said image pickup device picks up an object image for photo-taking and a state of an object determined from an object image picked up by said

image pickup device for photo-taking is not less than a predetermined value, said evaluation device prevents, in response to a predetermined instruction, the object image picked up by said image pickup device for photo-taking from being recorded in a recording device, and causes, if not receiving the predetermined instruction for a predetermined period of time, the object image picked up by said image pickup device for photo-taking to be recorded in the recording device (col. 28 line 1 – col. 29 line 39).

As to claim **24**, Inoue teaches that said evaluation device changes said predetermined value in accordance with a photo-taking condition (col. 28 line 1 – col. 29 line 39).

As to claim **25**, Inoue teaches that said evaluation device changes said predetermined value in accordance with one of a flash photo-taking condition, a slow-shutter mode and an exposure compensation mode (col. 28 line 1 – col. 29 line 39).

As to claim **30**, Inoue teaches that said evaluation device detects, by using said image pickup device, a state of an object existing before said image pickup device picks up an object image for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claim **31**, Inoue teaches that whether of not a difference between a state of an object determined from an object image picked up by said image pickup device for photo-taking and a state of an object existing before said image pickup device picks up an object image for photo-taking has a value not less than a predetermined value, said evaluation device varies control of said apparatus to be performed thereafter (col. 28 line 1 – col. 30 line 12).

Regarding claim **28**, Inoue '954 teaches an object image evaluating method, comprising a step of:

in response to an instruction for causing an image pickup device which picks up an object image to pick up an object image for photo-taking (col. 19 lines 57-61; col. 27 line 20+), on the basis of (i) a state of an object existing before said image pickup device picks up an object image for photo-taking and (ii) an object image picked up by said image pickup device for photo-taking, evaluating the object image (col. 25 line 1 – col. 26 line 54; col. 27 line 15 – col. 28 line 43).

Regarding claim **29**, Inoue '954 teaches a computer program product (Inoue teaches a microcomputer control circuit (237) in which a computer program product is inherently stored), comprising a content of:

in response to an instruction for causing an image pickup device which picks up an object image to pick up an object image for photo--taking, on the basis of (i) a state of an object existing before said image pickup device picks up an object image for photo-taking and (ii) an object image picked up by said image pickup device for photo taking, evaluating the object image (col. 25 line 1 – col. 26 line 54; col. 27 line 15 – col. 28 line 43).

Claim Rejections - 35 USC § 103

5. Claims 14 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue '954 in view of Haruki et al. (US #5,555,022).

As to claims **14** and **36**, claims 14 and 36 differ from Inoue in that the claim further requires that said evaluation device determines a difference between a state in color temperature of an object existing before said image pickup device picks up an object image for photo-taking and a state in color temperature of an object determined from an object image picked up by said

image pickup device for photo-taking. It is noted that the camera taught in Inoue is a color camera (col. 25 lines 1-9). It is well known in the art to provide a color evaluating value correcting circuit for a color camera using in order to properly adjusting white balance adjustment according to the color temperature variation of a light source, as taught in Haruki '022 (see col. 20 line 15 – col. 21 line 65). In light of the teaching in Haruki, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the camera taught in Inoue by determine a difference between a state in color temperature as claimed in claim 9 so as to provide a proper white balance adjustment even in the case when an object having color information not within a distribution range of color information due to a color temperature variation of a light source.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen T. Vu whose telephone number is 703-305-4946. The examiner can normally be reached on Mon. – Fri. from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NGOC-YEN VU
PRIMARY EXAMINER
Art Unit 2612

NYV
04/23/2004